

ORIGINAL

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ADMITTED TO PRACTICE IN:
ARIZONA, COLORADO, MONTANA,
NEVADA, TEXAS, WYOMING,
DISTRICT OF COLUMBIA

July 10, 2009

Arizona Corporation Commission
DOCKETED

JUL 14 2009

Docket Control
Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007

DOCKETED BY	<i>MS</i>
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Re: Diablo Village Water Company
and Thim Utility Co.
Docket Nos. W-02309A-09-0095
and W-03293A-09-0095

RECEIVED
2009 JUL 14 A 9:48
AZ CORP COMMISSION
DOCKET CONTROL

To Whom It May Concern:

Enclosed for filing in the above-referenced proceeding are the original and fifteen (15) copies of the Joint Applicants' Comments on the July 8, 2009 Commission Staff Report ("Comments") on behalf of Diablo Village Water Company and Thim Utility Co.

Also enclosed are two (2) additional copies of the Comments. I would appreciate it if you would "file" stamp the same and return them to me in the enclosed stamped and addressed envelope.

Thank you for your assistance with regard to this matter.

Sincerely,

Angela R. Trujillo

Angela R. Trujillo

Secretary

Lawrence V. Robertson, Jr.

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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

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AZ CORP COMMISSION
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KRISTIN K. MAYES, Chairman
GARY PIERCE
SANDRA KENNEDY
PAUL NEWMAN
ROBERT STUMP

IN THE MATTER OF THE JOINT APPLICATION)
OF DIABLO VILLAGE WATER COMPANY AND) DOCKET NO. W-02309A-09-0095
THIM UTILITY CO. FOR AUTHORIZATION TO) DOCKET NO. W-03293A-09-0095
SELL AND TRANSFER WATER SYSTEM)
ASSETS TO METROPOLITAN DOMESTIC) **JOINT APPLICANTS'**
WATER IMPROVEMENT DISTRICT AND) **COMMENTS ON JULY 8, 2009**
CANCELLATION OF CERTIFICATES OF) **COMMISSION STAFF REPORT**
CONVENIENCE AND NECESSITY.)

Pursuant to the Commission's June 9, 2009 Procedural Order, Diablo Village Water Company and Thim Utility Co. ("Joint Applicants"), hereby submit their Comments upon the July 8, 2009 Staff Report which has been filed in the above-captioned and above-docketed proceedings.

I.

DISCUSSION

The Joint Applicants are appreciative of the Commission Staff's recommendation that the two (2) requests for Commission action set forth in the March 2, 2009 Joint Application be approved. In that regard, the Joint Applicants believe that the two (2) conditions which accompany the Commission Staff's recommendation are of such a nature as to be susceptible to compliance well within the timeframes indicated in each such condition. However, the Staff Report does contain two (2) factual errors which should be corrected; and, such corrections are the second purpose of these Comments by the Joint Applicants.

More specifically, in connection with its discussion of the three (3) water systems owned and operated by Thim Utility, Co., the Staff Report states that:

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In actuality, the Asset Purchase Agreement which is the subject of the March 2, 2009 Joint Application contemplates the sale of both Thim Utility, Co.'s E&T system and its Lazy B system to the Metropolitan Domestic Water Improvement District ("Metro"). Accordingly, the Staff Report should be revised to reflect that fact.

In addition, in its description of Thim Utility Co.'s E&T system, the Staff Report states that the water system is located within "South Tucson." [see Staff Report at page 2, "The Transaction" section, second paragraph; and, Attachment "A" at page 2, "E&T System Service Area" section] The water system is actually located within an unincorporated area in Pima County, Arizona. Accordingly, the Staff Report should be revised to reflect that fact as well.

CONCLUSION

Page 2 of 3

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Commission's Staff in making the minor revisions to the July 8, 2009 Staff Report which have hereinabove been suggested.

Dated this 10th of July 2009.

Respectfully submitted,



Lawrence V. Robertson, Jr.
Attorney for Diablo Village Water Company
and Thim Utility Co.

Original and fifteen (15) copies of the foregoing Comments will be mailed this 10th day of July 2009 with:

Docket Control
Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 86007

A copy of the same served by e-mail or first class mail this same date to:

Hon. Lyn Farmer
Hearing Division
Arizona Corporation Commission
1200 W. Washington
Phoenix, Arizona 85007

Janice Alward, Chief Counsel
Legal Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Ernest Johnson, Director
Utilities Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007



Appendix “A”

Docket No. W-02309A-09-0095

Docket No. W-03293A-09-0095

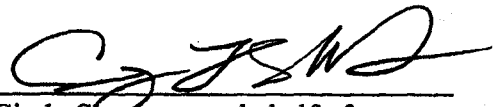
July 10, 2009

AFFIDAVIT OF MAILING

TO WHOM IT MAY CONCERN:

Pursuant to the Sixth Ordering Paragraph of the June 9, 2009 Procedural Order issued in Arizona Corporation Commission Docket Nos. W-02309A-09-0095 and W-03293A-09-0095, the undersigned mailed copies of the attached Public Notice of Hearing on the Application of Diablo Village Water Company and Thim Utility, Co. to each customer of the aforesaid water companies who would be affected by the March 9, 2009 Joint Application which is the subject of the Public Hearing to be held on July 30, 2009 in the above-referenced docketed proceedings. The aforesaid mailing of notice was accomplished on June 18, 2009.

Dated this 1st day of July 2009.


Cindy Shumate, on behalf of
Diablo Village Water Company and
Thim Utility, Co.

Jun 19 2009 10:48AM AZ JET MAIL

Docket No. 5 W-02309A-090095
520-571-8494 P.2

+ W-03293A-09-0095

United States Postal Service
Postage Statement
Standard Mail

List: Nordic Corp Pub Notice Ltr #118558

USPS: Note Mail Arrival Date & Time
(Do Not Round-Stamp)

Permit Holder	Phone (520)-571-1329 Ext 21		
M A I L E R	Arizona Jet-Mail Services 3710 E. 43rd Pl., Ste. 181 Tucson AZ 85713	Mailing Agent	Phone (520)-571-1329 Ext 22 Arizona Jet-Mail Services-Stacy Valdez 3710 E 43rd Pl., Ste. 181 Tucson AZ 85713
		Prepared For	NORDIC CORP PO BOX 13145 TUCSON AZ 85732 W0#118558
	CAPS Cust Ref No.	Customer No.	Customer No.

PO of Mailing Tucson AZ 85728	Processing Category <input type="checkbox"/> Letters <input type="checkbox"/> JCOMM <input type="checkbox"/> Flats <input type="checkbox"/> JNFM <input type="checkbox"/> Parcels - Machinable <input type="checkbox"/> Parcels - Irregular <input type="checkbox"/> Ltrs Pd as NA Flats <input type="checkbox"/> JECR Ltrs Pd as Flats	Mailing Date 6/17/2009	Fed Agcy Cost Cde 541	Statement Sequence # NORDIC	Number of Containers
Type of <input type="checkbox"/> Permit Postage <input type="checkbox"/> Precanceled <input type="checkbox"/> Metered	Wt of a Single Pc 0.0125 pounds	Total Pieces 1,287	Total Weight 16.0875		1' MM 2' MM 2' EMM Tot Trays Flat Trays Sacks Pallets Other
Permit # 541	For mail enclosed within another class: <input type="checkbox"/> Periodicals <input type="checkbox"/> Bound Printed <input type="checkbox"/> Library <input type="checkbox"/> Media <input type="checkbox"/> Parcel Matter Mail Mail Post	If Sacked, Based on <input type="checkbox"/> 1125 pcs <input type="checkbox"/> 115 lbs <input type="checkbox"/> Both			

For Auto Price Pcs Enter Date of Address Matching & Coding 6/17/2009	For ECR Price Pcs Enter Date of Address Matching & Coding 6/17/2009	For ECR Price Pcs Enter Date of Carrier Route Sequencing 6/17/2009	Move Update Method <input type="checkbox"/> JASE <input type="checkbox"/> JFASTforward <input type="checkbox"/> JINCOALink <input type="checkbox"/> JACS <input type="checkbox"/> JAlternate <input type="checkbox"/> JMultiple
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Parts Completed (Select all that apply): <input type="checkbox"/> JA <input type="checkbox"/> JB <input type="checkbox"/> JC <input type="checkbox"/> JD <input type="checkbox"/> JE <input type="checkbox"/> JF <input type="checkbox"/> JG <input type="checkbox"/> JH <input type="checkbox"/> JI <input type="checkbox"/> JJ <input type="checkbox"/> JK <input type="checkbox"/> JL <input type="checkbox"/> JS	
P R I C E A F F I X E D	Price Affixed: Complete if the mailing includes pieces bearing metered or precanceled stamps. Total Postage (Check one) <input type="checkbox"/> Correct <input type="checkbox"/> Lowest <input type="checkbox"/> Neither pcs x \$ = Postage Affixed Net Postage Due
Additional Postage Payment (State reason)	
Total Adjusted Postage Affixed	
Postmaster: Report Total Postage in AIC 130 (Permit Imprint Only)	
Total Adjusted Postage Permit Imprint	

C The mailer's signature certifies acceptance of liability for and agreement to pay any revenue deficiencies assessed on this mailing, subject to appeal. If an agent signs this form, the agent certifies that he or she is authorized to sign on behalf of the mailer, and that the mailer is bound by the certification and agrees to pay any deficiencies. In addition, agents may be liable for any deficiencies resulting from matters within their responsibility, knowledge, or control. The mailer hereby certifies that all information furnished on this form is accurate, truthful, and complete; that the mail and the supporting documentation comply with all postal standards and that the mailing qualifies for the prices and fees claimed; and that the mailing does not contain any matter prohibited by law or postal regulation. I understand that anyone who furnishes false or misleading information on this form or who omits information requested on this form may be subject to criminal and/or civil penalties, including fines and imprisonment. Privacy Notice: For information regarding our Privacy Policy visit www.usps.com.

Signature of Mailer or Agent	Printed Name of Mailer or Agent Signing Form Arizona Jet-Mail Services-Stacy Valdez	Telephone (520)-571-1329 Ext 22
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Weight of a Single Piece _____ pound	Are postage figures at left adjusted from mailer's entries? If "Yes" state reason:	<input type="checkbox"/> Yes <input type="checkbox"/> No
Total Pieces	Total Weight	Total Postage
		Round Stamp (Required) Date Mail Released

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I CERTIFY that this mailing has been inspected concerning: (1) eligibility for postage rates claimed; (2) proper preparation (and presort where required); (3) proper completion of postage statement; (4) payment of annual fee (if required); and (5) Sufficient funds on deposit (if required).				
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**PUBLIC NOTICE OF THE HEARING ON THE APPLICATION OF
DIABLO VILLAGE WATER COMPANY AND THIM UTILITY CO. FOR APPROVAL OF
SALE OF ASSETS AND CANCELLATION OF CERTIFICATES
OF CONVENIENCE AND NECESSITY.
(Docket Nos. W-02309A-09-0095 and W-03293A-09-0095)**

Summary

On March 9, 2009, Diablo Village Water Company and Thim Utility Co. ("Companies") filed with the Arizona Corporation Commission ("Commission") an application for approval to sell its assets and operations to Metropolitan Domestic Water Improvement District and to cancel their Certificates of Convenience and Necessity upon consummation of the sale. The Commission's Utilities Division ("Staff") has not yet made a recommendation regarding the Companies' application, and the Commission is not bound by the proposals made by the Companies, Staff, or any intervenors. The Commission will issue a decision regarding the Companies' application following consideration of testimony and evidence presented at an evidentiary hearing.

How You Can View or Obtain a Copy of the Application

Copies of the application are available at the Companies' offices 6810 E Broadway Blvd #101, Tucson, AZ 85710 and the Commission's offices at 1200 West Washington, Phoenix, Arizona, for public inspection during regular business hours and on the internet via the Commission website (www.azcc.gov) using the e-docket function.

Arizona Corporation Commission Public Hearing Information

The Commission will hold a hearing on this matter beginning **July 30, 2009, at 10:00 a.m.**, at the Commission's offices, 400 West Congress, Room 5, South Building, Tucson, Arizona. Public comments will be taken on the first day of the hearing. Written public comments may be submitted via email (visit http://www.azcc.gov/divisions/utilities/forms/public_comment.pdf for instructions), or by mailing a letter referencing Docket Numbers W-02309A-09-0095 and W-03293A-09-0095 to: Arizona Corporation Commission, Consumer Services Section, 1200 West Washington, Phoenix, AZ 85007. If you require assistance, you may contact the Consumer Services Section at (800) 222-7000.

About Intervention

The law provides for an open public hearing at which, under appropriate circumstances, interested parties may intervene. Any person or entity entitled by law to intervene and having a direct and substantial interest in the matter will be permitted to intervene. **If you would like to intervene, you must file a written motion to intervene with the Commission no later than July 13, 2009.** You must send copies of the motion to the Companies or its counsel, and to all parties of record in the case. Your motion to intervene must contain the following:

1. Your name, address, and telephone number, and the name, address, and telephone number of any party upon whom documents are to be served in your place, if desired;
2. A short statement of your interest in the proceeding (e.g., a customer of the Companies, a shareholder of the Companies, etc.); and
3. A statement certifying that a copy of your motion to intervene has been mailed to the Companies or its counsel and to all parties of record in the case.

The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except that **all motions to intervene must be filed on or before July 13, 2009.** If representation by counsel is required by Rule 31 of the Rules of the Arizona Supreme Court, intervention will be conditioned upon the intervenor obtaining counsel to represent the intervenor. For information about requesting intervention, visit the Arizona Corporation Commission's webpage at <http://www.azcc.gov/divisions/utility/forms.asp>. The granting of intervention, among other things, entitles a party to present sworn evidence at hearing and to cross-examine other witnesses. **However, failure to intervene will not preclude any customer from appearing at the hearing and making a statement on such customer's own behalf.**

ADA/Equal Access Information

The Commission does not discriminate on the basis of disability in admission to its public meetings. Persons with a disability may request a reasonable accommodation such as a sign language interpreter, as well as request this document in an alternative format, by contacting the ADA Coordinator Shaylin Bernal, E-mail SBernal@azcc.gov, voice phone number 602/542-3931. Requests should be made as early as possible to allow time to arrange the accommodation.

Docket NO.s W-02309A-09-0095
+ W-03293A-09-0095

TUCSON NEWSPAPERS

Tucson, Arizona

STATE OF ARIZONA)
COUNTY OF PIMA)

Debbie Capanear, being first duly sworn deposes and says: that she is the Legal Advertising Representative of **TNI PARTNERS, commonly known as TUCSON NEWSPAPERS**, a General Partnership organized and existing under the laws of the State of Arizona, and that it prints and publishes the Arizona Daily Star, a daily newspaper printed and published in the City of Tucson, Pima County, State of Arizona, and having a general circulation in said City, County, State and elsewhere, and that the attached

Legal Notice

was printed and published correctly in the entire issue of the said Arizona Daily Star on each of the following dates, to-wit:

June 19, 2009

Debbie Capanear

Subscribed and sworn to before me this 24 day of

June, 2009

Silvia Alvaldez
Notary Public



SILVIA ALVALDEZ
Notary Public - Arizona
Pima County
Expires 12/15/09

My commission expires _____

TNI AD NO. 67842H

HEARING ON THE APPLICATION OF DIABLO VILLAGE WATER COMPANY AND THIM UTILITY CO. FOR APPROVAL OF SALE OF ASSETS AND CANCELLATION OF CERTIFICATES OF CONVENIENCE AND NECESSITY.
(Docket Nos. W-02309A-09-0095 and W-03293A-09-0095)

Summary
On March 9, 2009, Diablo Village Water Company and Thim Utility Co. ("Companies") filed with the Arizona Corporation Commission ("Commission") an application for approval to sell its assets and operations to Metropolitan Domestic Water Improvement District and to cancel their Certificates of Convenience and Necessity upon consummation of the sale. The Commission's Utilities Division ("Staff") has not yet made a recommendation regarding the Companies' application, and the Commission is not bound by the proposals made by the Companies, Staff, or any intervenors. The Commission will issue a decision regarding the Companies' application following consideration of testimony and evidence presented at an evidentiary hearing.

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1. Your name, address, and telephone number, and the name, address, and telephone number of any party upon whom documents are to be served in your place, if desired;
 2. A short statement of your interest in the proceeding (e.g., a customer of the Companies, a shareholder of the Companies, etc.); and
 3. A statement certifying that a copy of your motion to intervene has been mailed to the Companies or its counsel and to all parties of record in the case.
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-Cont.

DOCKET NO.s
W-02309A-09-0095
+ W-03293A-09-0095

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Publish June 19, 2009
Arizona Daily Star